

REMARKS / DISCUSSION OF ISSUES

Claims 1-5, 9-14, and 16-24 are pending in the application.

The Examiner rejects claims 1-3, 9-14, 16¹, and 20-24 under 35 U.S.C. 103(a) over Vossler (USP 7,206,429), Rast (USPA 2001/0046304), and Official Notice. The applicants respectfully traverse this rejection.

The combination of Vossler and Rast fails to teach or suggest a first and second controller, each with touch sensitive areas, that send control signals to a personal audio system based on the touching of the touch sensitive areas, as specifically claimed in claim 1, upon which claims 2-5 and 13-14 depend.

The combination of Vossler and Rast also fails to teach or suggest a pair of earbuds, wherein each earbud includes a sensor that is configured to provide an indication of a touch of the earbud, to control of an audio device based on the indications from the pair of earbuds, as specifically claimed in claim 9, upon which claims 10-12 depend.

The combination of Vossler and Rast also fails to teach or suggest detecting a touch of each of a pair of earbuds, and providing an indication of the touch to the audio device, to control of the audio device based on the indications, as specifically claimed in claim 16, upon which claims 17-19 depend.

The combination of Vossler and Rast also fails to teach or suggest a control element that receives indications of touchings of each earbud of a pair of earbuds, and controls a device based on these indications, as specifically claimed in claim 20, upon which claims 21-24 depend.

The Office action acknowledges that the combination of Vossler and Rast fails to teach or suggest each of the elements of claims 1, 9, and 20, and asserts that "it would have been obvious that the number of controllers included in the audio system would have been determined based on designer's needs e.g. if there were additional features within the audio system that needed to be controlled, more controls would have been included within multiple controllers so that the additional features could be

¹ The Examiner does not recite claim 16 in the rejection, but does include claim 16 in the comments associated with this rejection: "Claim 16 has been analyzed and rejected according to claim 1". The applicants assume that the omission of claim 16 in the rejection was a typographical error.

controlled". This assertion is incorrect and unfounded, and the applicants herein traverse this official notice.

The control of an audio device does not require multiple controllers, and the number of features being controlled does not, per se, require multiple controllers. Contrarily, the popularity of "universal controllers" strongly supports the conventional wisdom that a single controller is preferred even when controlling the varied functions of multiple devices.

Conventional engineering practices do not support providing two controllers when one controller is sufficient to control a device. Both Vossler and Rast indicate that a single controller is sufficient to support the audio device being controlled, and neither indicate that providing multiple features would require a second controller. Contrarily, Vossler teaches that different buttons would be used for different commands, and Rast specifically teaches that different touch patterns would be used.

Providing a second controller adds cost to the system that embodies this second controller, and, absent any apparent reason to incur this additional cost, one of skill in the art would be adverse to this additional controller.

The applicants have recognized that although one controller, such as taught by Vossler and Rast, would be adequate to control an audio device, placing a controller in each of a pair of earbuds provides the opportunity for a more ergonomic control of the device. Given that the user has an earbud in each ear, the applicants realized that different functions could be controlled by each earbud, thereby simplifying the control of the device. For example, instead of providing a different touch-pattern/button-selection for the "increase volume" and "decrease volume" functions, a single touch-pattern/button-selection for "volume" can be provided, and increasing or decreasing the volume can be effected by selecting the right or left earbud/controller.

The prior art does not teach or suggest the advantages that are achievable by providing two controllers instead of one, and, absent the applicants' teachings, one of ordinary skill in the art would have no apparent reason to add a second controller to the design of either Vossler or Rast. Accordingly, the applicants respectfully maintain that the rejection of claims 1-3, 9-14, 16, and 20-24 under 35 U.S.C. 103(a) over Vossler, Rast, and Official Notice is unfounded, and should be withdrawn.

The applicants respectfully request that the Examiner provide concrete evidence in the record in support of the assertion that one of skill in the art would add a second controller to control an audio device when a first controller, such as taught by Vossler and Rost, is already provided, in accordance with MPEP 2144.03.

The Examiner rejects claims 4-5 and 17-19 under 35 U.S.C. 103(a) over Vossler, Rast, Office Notice, and Boesen (USP 6,560,468). The applicants respectfully traverse this rejection.

Claims 4-5 and 17-19 are dependent upon claims 1 and 16, respectively, and in this rejection, the Examiner relies on the combination of Vossler, Rast, and Official Notice for teaching the elements of claims 1 and 16.

As noted above, the combination of Vossler, Rast, and Official Notice fails to teach the elements of claims 1 and 16, and Boesen fails to correct this deficiency. Accordingly, the applicants respectfully maintain that the rejection of claims 4-5 and 17-19 under 35 U.S.C. 103(a) over Vossler, Rast, Office Notice, and Boesen that relies on the combination of Vossler, Rast, and Office Notice for teaching the elements of claims 1 and 16 is unfounded, and should be withdrawn.

In view of the foregoing, the applicants respectfully request that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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